

09.09.2022/TURKIYE

**Subject: Human Rights Council resolution 49/12**

This submission has been prepared by TOHAD Team on behalf of Disability Rights Monitoring Group in Turkiye.

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**Background Info:**

Turkey signed the UN Convention on the Rights of Persons with Disabilities (UN CRPD) on 30 March 2007. The ratification of the Convention was approved by Law No. 5825 of 3 December 2008. The Convention entered into force in Turkey on 28 October 2009. Turkey had no reservations or declarations regarding the Convention.

Law No. 5378 on Persons with Disabilities entered into force in 2005, two years before the UN Convention on the Rights of Persons with Disabilities, but the first version of this law was mainly based on the medical model. After the approval of the UN CRPD, this law was amended eight times, and efforts were exerted to harmonize its content in line with the UN CRPD.

Apart from this Law, the lives of persons with disabilities are regulated by the Constitution, the Civil Code, the Basic Law of Health Services, the Penal Code, the Law on the Execution of Sentences and Security Measures, the Social Security and General Health Insurance Law as well as statutory and/or legal decrees.

Moreover, the Ministry of Family and Social Services officially presented the policies and services that they aim to deliver regarding the rights of persons with disabilities by 2030 with the document named '2030 Barrier-Free Vision' in September 2020. The

document addresses policies to be developed for citizens with disabilities under eight headings. They include “Inclusive and Accessible Society”, “Protection of Rights and Justice”, “Health and Well-Being”, “Inclusive Education”, “Economic Security”, “Independent Living”, “Disaster and Humanitarian Emergencies” and “Implementation and Monitoring”.

The General Directorate Services for Persons with Disabilities and the Elderly (EYHGM) was established under the Ministry of Family and Social Policy by the Decree Law no. 633 in 2011 with the purposes of improving life quality of persons with disabilities and providing services more efficiently. It is the focal point of Turkey for promoting the implementation and monitoring of CRPD at national level. It aims at providing intersectoral coordination at national level and thus, reflecting the rights based approach to national legislation and practices. In line with the reform in the executive system in 2020, Ministry of Family and Social Policy was restructured and renamed as the Ministry of Family and Social Services. In this scope, EYHGM currently functions affiliated with the Ministry of Family and Social Services.

**1(a). Does your country have laws, policies, plans, strategies or programmes at any level of government relating to individualized support for persons with disabilities? In particular initiatives related to:**

- i. Communication: Support to overcome barriers that limit the ability to communicate and be understood (e.g., sign language interpretation, tactile interpretation, assistive technology and software, easy-to-read and plain language, captioning, augmentative and alternative communication, among others);**

Turkey has a supreme board to oversee radio and television broadcasts. The “Regulation on Broadcasting Procedures and Principles” was finalized with the amendments made in 2014. According to this regulation, it became obligatory to include the option of captioning services for the hearing-impaired in movies, TV series, and news programs broadcast on state official (TRT) channels (to reach thirty percent in three years and fifty percent in five years) to ensure that they access broadcast services on equal terms with other individuals.

However, although these services were partially delivered (including sign language translation to the news and the introduction of subtitles to TV series), this goal has not been sufficiently achieved so far. While there was a sign language interpreter for the speech of the President, delivered once a week during the pandemic period, there was no sign language interpreter for the speeches of the health minister, who made a press statement every day and conveyed the current situation. Yine. The 'Hayat Eve Sığar' application, introduced during this period, was not accessible to the visually impaired. access to education was provided through sign language to a very limited extent as part of the distance education process.

The lack of strategy, coordination, and specific service standards regarding sign language caused institutions to adopt different practices and establish an inefficient system.

On the other hand, the Ministry of Family and Social Services prepared an easy-to-read guide that compiles a lot of information about COVID-19 during the pandemic period.

The '2030 Barrier-Free Vision' document set the following objectives regarding communication:

- Websites of public institutions will be made accessible
  - Accessibility of e-government services will be strengthened
  - Accessibility to services by the media industry will be strengthened.
  - Accessible versions of printed and digital publications will be increased in number.
  - Accessibility of banking services will be expanded
  - Accessibility to emergency call services will be strengthened.
- ii. **Decision-making: Support to make decisions and exercise legal capacity. This includes assistance to: (a) obtain and understand information, (b) evaluate the possible alternatives and consequences of a decision, (c) express and communicate a decision, and/or (d) implement a decision (e.g., support agreements, peer support, self-advocacy support, advance directives, crisis support, financial management assistance, among others);**

The legal capacity in the Turkish legal system is different from the definition of "legal capacity" used in the UN Convention on the Rights of Persons with Disabilities (CRPD). Contrary to Article 12 of the CRPD, the Turkish Civil Code has two different concepts in terms of legal capacity: the capacity to benefit from rights and the capacity to act. The civil code (Law No. 4721, TMK, from here onwards) states that "the capacity to enjoy rights" refers to all the rights a person has from birth. Therefore, according to the Turkish legal system, having the capacity to enjoy rights means to be a person. Article 8 of the TMK states that everyone is equal in living these rights and fulfilling their obligations within their legal limits. The capacity to enjoy rights ends only when the person dies.

Article 10 of the TMK makes the actual use of the capacity to benefit from rights conditional. Article 10 states that anyone who is 18 years old and has the power to discriminate and is not under legal guardianship has legal capacity. In other words, TMK stipulates that individuals adhere to certain obligations in order to have the right to benefit from legal capacity.

"Capacity to act" refers to the fact that when a person commits an act, that act has a legal consequence. Exactly at this point, the "power to discriminate" emerges as an important factor in terms of the capacity to act of individuals. The specific conditions listed in Article 13 of the TMK help define what "lack of the power to discriminate" means.

Article 14 of the TMK clearly states that minors, those who do not have the power to discriminate and those under legal guardianship do not have the capacity to act. In this respect, some disabled people are equated with minors and are considered as a disabled person who does not have the capacity to act according to their situation.

People who have been diagnosed with a mental illness and and intellectual disability also fall into this category.

According to Article 405 of the TMK, any adult who cannot work due to mental illness or mental weakness, or who constantly needs help for his/her protection and care, or who endanger the safety of others, should be restrained.

Criminal liability restriction in Turkey can also be applied at the request of individuals. This right is guaranteed in Article 408 of the TMK. Under this clause, if an adult proves that he or she does not have the capacity to do their job properly, s/he can request the appointment of a representative. Reasons for this appoinment can be age, disability, inexperience, or serious illness.

In the boards established during the COVID period, support systems were not established in discussing the situations related to the disabled, and most of the time, disabled representatives or OPDs were not included into these boards as well.

In practice, situations where legal capacity is damaged are also frequently encountered, for example, requesting a witness or guardian when performing public transactions (notary or banking service) from persons with disabilities who are not under guardianship (persons with visual, hearing, or mental disabilities).

**iii. Mobility: Support for personal mobility and access to affordable and available quality mobility assistance (e.g., mobility aids, assistive technologies and products (prostheses, orthotics, wheelchairs), animal assistance, point-to-point and paratransit transport, among others);**

Turkey has a social security system created with an inclusive approach that supports the realization of personal mobility and rehabilitation rights. Despite its setbacks, at a fundamental level, people with disabilities have a right to access to personal mobility devices and have access to technologies and rehabilitation services. However, in practice, it is seen that the most fundamental problem in accessing devices and technologies that provide personal mobility stems from financial constraints.

The government has not changed the amount of support it has set for the supply of medical supplies (despite inflation and increasing sales prices) for almost 5 years. It also sets a quota for the session hours given in the rehabilitation centers. A similar situation applies to the rehabilitation services provided by the Ministry of National Education. This means that supports are provided cost-oriented, not need-oriented.

For example, people with certain disability rates have a tax deduction on their car purchases. However, increasing car prices and non-renewable tax deductions make these supports meaningless. During the pandemic period, the disabled and the elderly were not taken to public transport. Considering all these applications, it is seen that the existing laws and supports have no equivalent in practice. Also, some of these supports stopped during the pandemic period.

Treatment processes such as cochlear implant surgeries for hearing-impaired people were also stopped during the pandemic period due to the increase in costs and the fact that these treatments are not seen as a priority during the pandemic period.

- iv. **Assistance with daily living activities: Support to assist persons with disabilities in a one-to-one human relationship to perform daily life activities like getting up, bathing, dressing, grooming, going out, cooking, cleaning, guiding, shopping, or doing laundry (e.g., full or part time professional personal assistance, third person support allowance, informal personal assistance, household cleaner, among others);**

Some forms of assistance in the home of the person in need of care is provided by different establishments to promote and support to live independently in the community.

Home care support services are provided by an appointed caregiver from a care institution affiliated with the Ministry of family and Social Services. Home care support services include professional help with personal hygiene, cleaning, laundry, getting dressed and such in addition to counseling and psychological support for the person in need and his/her family.

Healthcare at home is provided by the Ministry of Health and its affiliates in the home environment for patients with bedridden and chronic diseases. Physical examination, medical work up, medical analysis, treatment, medical care, follow-up and rehabilitation services including social and psychological counseling are provided by the specialized units.

Home care and assistance to elderly and PwDs are also provided by local authorities. The dimension of the assistance depends on the capacity of the local government and the condition/requirements of the beneficiary. Municipalities also provide these services, but there is no set standard. Services are provided within the framework of the municipality's vision, financial resources and human resources.

Care services are provided to the disabled, whose families are in economic deprivation and in need of care, at their homes or in the institution. Up to two minimum wages of care services provided in institutions are paid by the state. Again, under the same conditions, the caregiver is paid up to a minimum wage for the disabled person whose care is covered by a family member or relative. In order to benefit from care service and care fee, it is necessary to apply to the Provincial Social Services Directorate.

The fee for home care support is not paid to individuals with disabilities directly, on the contrary it is given to their relatives or guardians of these people. This is an important problem in terms of supporting independent living of people with disabilities.

- v. **Housing and accommodation: Support in relation to housing and living arrangements in the community, including home modifications (e.g., housing information and assistance, home support, supported living services, financial support for housing, among others);**

Article 28 of the UN CRPD requires states parties to ensure that persons with disabilities have access to housing programmes. At this point, of course, what is meant by housing programs is affordable and accessible housing. In this respect, the access of persons with disabilities to housing programs is important in two respects. First; persons with disabilities who are economically deprived will be supported through low-cost social housing programmes. And the second is capacity of the personal mobility and independent living of people with disabilities will increase through houses built in accessible architecture.

The task of carrying out comprehensive housing projects in Turkey and creating land and resources for these projects is under the authority of the Housing Development Administration (TOKİ). Due to the high demand for these houses, TOKİ usually determines the people who will buy houses by casting lots. Between 2005 and 2020, 796 thousand social residences have been built by TOKİ, 5% of these residences are reserved for the quota of disabled individuals. Although this quota is very important for the needs of people with disabilities, but is clear that it is insufficient. Moreover, physical accessibility regulations are not taken into account sufficiently in social housing supports. On the other hand, payment plans are not suitable and affordable for many people with disabilities.

- vi. Family and household support: Support to families and households with members with disabilities (e.g., informal support for persons with disabilities, including care-related work leave and capacity building for informal care and support, community-based network and community mobilization programmes, peer-support groups, localized intervention programmes, circle of support, early childhood support, respite care, among others); and**

Only disabled individuals who are public employees and parents of disabled children who are public employees have additional leave and right of appointment.

- vii. Disability-related extra costs: Financial support to pay services and goods, including personalized budgets and direct payments (e.g., cash transfers beyond income replacement, additional funds to cover support services, among others).**

Employees who, themselves, their spouses or one of their dependent children are disabled, have the right to a deduction from the income tax base depending on their degree of disability. Employees (or their spouses and children) with at least 40% disability can benefit from this deduction.

Vehicle tax (Motorlu Taşıtlar Vergisi) must be paid for all registered vehicles, for either commercial or individual use in Turkey. The tax rate is calculated based on the vehicle's age and engine size. Disabled drivers are exempt from this tax.

Turkey aims to help disabled people access the vehicles easily by applying exemption for special consumption tax, however, there is an upper price limit in order to purchase a vehicle with the tax exemption. However, these upper price limits are not revised in

parallel with inflation and increasing prices, and therefore people with disabilities often encounter tax deductions that do not correspond in real life.

People older than 65-years-old and all disabled people will be able to use public transportation, public museums and theatres for free. However, these free services are not 100% accessible.

**1(b). What are the government institutions, departments and ministries in charge of budgeting, financing and implementing the above?**

Ministry of Family and Social Services, General Directorate of Services for the Disabled and Elderly, Social Security Institution, Ministry of Treasury and Finance, Social Policy Board of the Presidency, Ministry of Health, Ministry of National Education General Directorate of Private Education Institutions (the support they provide to rehabilitation centers)

**1(c). How is the social and solidarity economy (third sector, non-profit sector), particularly the disability sector, involved in budgeting, financing and implementing the above (1(a))?**

The state usually does not carry out the planning process with a participatory policy from the beginning, instead, public institutions generally take the opinion of civil society after creating the draft plan. However, this causes contributions to reach a limited final output.

**1(d). How are persons with disabilities and their representative organizations involved in the design and monitoring of the above (1(a))?**

Article 33 of the UN CRPD says: Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process. However, public institutions and services in Turkey are often not monitored by civil authorities and the system is not open to this.

However, in a very limited area - provincial accessibility commissions within the governorships - there are representatives from non-governmental organizations, but the election processes of these people to the commission are not transparent and accountable.

**2(a). Does your country have legislation or policies, at any level of government, regulating and coordinating a care and support system that considers the areas mentioned in 1(a) above? Please provide references to the documentation.**

Long-term care is not ensured by a single system, but it is mainly provided and run by the Ministry of Family and Social Services. Thus, care services for persons with disabilities (PwDs) and the elderly are centrally administered. Application and other relevant processes for long term care are carried out by provincial directorates of the Ministry in 81 provinces. Benefits are financed from the government budget. Benefits provided by the the Ministry of Family and Social Services for long-term care are

combined (benefits in-kind and cash benefits including Home Care Allowance). Entitlement for the benefits in-kind (both for PwDs and the elderly) is based on universal entitlement. Cash benefits are based on the means-tested.

Healthcare at home and some assistive devices are provided under general health insurance system (universal) run by the Ministry of Health, and some home support services for PwDs and the elderly are provided by local government based on necessities.

There have been significant developments in recent years with regard to ensuring independent living and inclusion of PwDs to society. The general principle of Law no. 2828 on Social Services were defined as: ensuring that PwDs, persons in need of support and the elderly lead a healthy, peaceful and safe life; providing care and rehabilitation services to PwDs in a way that can enable them live independently and productively and taking necessary measures for rendering constant care to PwDs who cannot be treated.

There is structured legislation on care services, but there are problems in the implementation of the legislation. No steps are taken at the point of systematic monitoring, follow-up and punishment.

**2(b). If yes, please describe how the care and support system is financed and what is the percentage of the eligible population covered.**

As of today, 7705 disabled people, who are in need of institutional care and could not receive care at home or do not prefer receiving care services at home, are provided with care services in a total of 278 institutions with the capacity of 8312 run by the government, private sector and associations.

Since we do not have information about the population in need of care service, it is not possible to reveal how much of the population has access to this service.

Destitute, needy or vulnerable disabled people are provided with pension in accordance with Law No. 2022.

**3. Does your country have a strategy to develop legislation, policies and programmes to enable the development of support systems as described in 1(a) above which includes targets, indicators and an accountability mechanism? Please provide references to the documentation.**

With the 2030 Vision Document, it is aimed to coordinate the policy making and monitoring processes in the field of disability with a multilateral and participatory approach. In addition to collecting data on the numbers and qualifications of the disabled, it is also aimed to provide data on the quality of the services provided. However, in the current situation, for most public services, indicators are not transparent, disaggregated data is not kept systematically. The parliamentary questions on this issue are not answered either.



**4. Please provide data on persons with disabilities and families and households accessing care and support systems as described above in 1(a) and 2(a).**

According to the information published by the General Directorate of Disabled and Elderly Services, information on official care and rehabilitation centers and the disabled people cared for in these centers are as follows:

The number of official residential care and rehabilitation centers serving disabled individuals reached 104 as of April 2022.

Institutional care services in Turkey have recently started to transform in parallel with the approach of “community based care”. Within this context, “Barrier Free Life Centers” that provide institutional care service and living environments to PwDs in need of care in single floor houses with gardens for 10 to 12 persons and “Hope Homes” that aim for ensuring active participation to social life by means of providing care services to small groups of PwDs in apartment houses have put into service since 2006. The number of Hope Houses reached 148 as of April 2022.

As of April 2022, the number of disabled individuals who benefited from day care services is 931.

As of April 2022, 7705 disabled people, who are in need of institutional care and could not receive care at home or do not prefer receiving care services at home, are provided with care services in a total of 278 institutions with the capacity of 8312 run by the government, private sector and associations.

Also, as of April 2022, 25,811 disabled people benefit from residential care services in 298 private care centers.

The number of disabled individuals receiving disability pension is 730,035 in April 2022.

**5. Please provide data on the impact of the COVID19 pandemic on persons with disabilities and families and households with members with disabilities (death rates disaggregated by disability status, death rates in institutions compared to those living in the community, impact on income as a consequence of disruption in support or increased support and care demands, disruption in support services, among other).**

The Ministry of Health's Coronavirus Science Board is the advisory board established by the Ministry of Health in Turkey on January 10, 2020 to combat the COVID-19 disease due to the coronavirus pandemic. A board of medical doctors was responsible for making many decisions in health and related fields during the pandemic period. Unfortunately, some decisions taken due to the fact that the Board was not formed with an interdisciplinary perspective led to some violations of rights.

The Board decided to vaccinate disabled and elderly people first, but strictly prohibited these groups from leaving the house during the quarantine period. Although these groups can reach the vaccine quickly, due to long-term and harsh quarantine measures, physical and psychological problems occurred in disabled people and

elderly people. Behavioral and violence problems increased in groups with autism or intellectual disability. OPDs, self-advocates and families reacted to this situation, after which the curfew was stretched at certain hours. These groups were given specific priorities (social support groups were created and their shopping needs were met by these support groups).

During the pandemic process, the Ministry of Health was announcing the daily data with a table every evening. In this table, the data were collected under the following headings: the number of cases detected, the number of tests performed, the number of people who died, the number of patients in the intensive care unit, the number of intubated people and the number of people who recovered as a result of treatment. When the vaccination process started; the number of people vaccinated was added to this table. It was not possible to access information according to the age, gender and disability of the people from the daily data. While gender and age information can be accessed in some interim reports written by the Ministry, however, disability data has never been accessible and separable. In the Minister's statements, the number of people with chronic diseases was sometimes stated, but no regular statement was made based on this data.

Various institutions (care and rehabilitation centers, boarding schools, orphanages, prisons, etc.) where people with disabilities stay as boarders are unfortunately places that have a potential to produce violence and abuse. In order to prevent the occurrence of violence and abuse in these places, to ensure that the incidents are detected, to determine the needs of the personnel and the disabled people and to meet these needs effectively, these institutions should be opened to the audit of civilians and independent persons. However, the pandemic process has almost zeroed even the limited communication of closed institutions with the outside world.